

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT  
CIVIL ACTION NO. 06-0205-BLS

RONALD P. PASSATEMPO, et al.

Plaintiffs,

v.

FREDERICK V. MCMENIMEN III, et al.

Defendants.

Exhibit A

**ORDER OF COURT**

After hearing on December 8, 2009 on Plaintiffs' Emergency Motion to Enjoin Defendant Frederick V. McMenimen III from Transferring Assets and for Permission to Issue Post-Verdict Subpoenas, I hereby allow Plaintiffs' Motion and order as follows:

**I. Injunction**

McMenimen shall not spend, transfer or alienate any asset or part of any asset (including but not limited to money, funds, personal or real property) in which he has any interest of any kind (present or future, direct or indirect) and shall not allow any other party to do the same to any asset or part thereof to which McMenimen has any such interest, in an amount valued at or in excess of \$2,500.00 without giving ten (10) days prior written notice to counsel for Plaintiffs.

If written notice is given by mail, McMenimen should add an additional 3 days.

If there is any possibility that the asset at issue could be valued by a reasonable person at approximately \$2500, McMenimen shall conclude that it is \$2500 and shall give notice under this requirement.

Two or more transfers of an asset or any part of an asset of less than \$2500 to the same or similar person(s) and/or entities that cumulatively equal \$2500 or more over the course of one year shall be included in the notice requirement.

If Plaintiffs intend to contest the transfer of the asset after proper notice from McMenimen, Plaintiffs shall notify McMenimen's counsel in writing by e-mail and

NOTICE SENT  
12-14-09  
R.P.P.  
S.P.B. & G.  
C.M.W.  
S.P.G.  
C/LAW  
W.P.C. Jr.  
P. & A.  
R.T.G.  
T.O.L.  
R. & G.  
H.J.W.  
MASS. A.G.  
T.J.C.

mail of the objection within the 10 day notice period, and shall file an emergency motion with the court without delay. Once put on notice of Plaintiffs' objection, McMenimen shall not make the transfer at issue.

Plaintiffs' counsel and McMenimen's counsel may agree in advance to exceptions to this notice requirement. Those agreed exceptions shall be in writing. At this time the parties acknowledge that no such exceptions exist.

Notice is sufficient to Plaintiffs when sent by regular, certified, or overnight mail to:

Charles M. Waters  
Sheehan, Phinney, Bass & Green, PA  
255 State Street  
Boston, MA 02109

Notice is sufficient to McMenimen when sent by regular, certified, or overnight mail to:

William P. Corbett, Jr.  
The Corbett Law Firm  
85 Exchange Street  
Lynn, Massachusetts 01901

## **II. Income Tax Returns**

With respect to Defendant McMenimen's income tax returns (which for purposes hereunder shall include without limitation all personal returns, joint returns, returns for any entity in which McMenimen has an interest of any kind), McMenimen shall do one of the following:

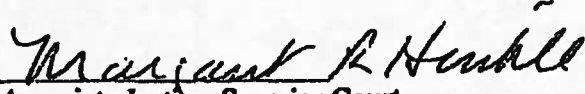
A. Voluntarily produce to Plaintiffs' counsel within ten (10) days herewith copies of his federal and state income tax returns from 2004 to the present, including but not limited to all scheduled, W-2s and 1099s filed therewith. Should McMenimen wish to exclude or redact any portion of such returns, counsel for McMenimen shall submit a letter to the Court with the income tax returns and the Court will review the proposed redactions in camera; OR

B. Review his income tax returns from 2004 to the present and make himself available for a 90-minute deposition within ten (10) days herewith with all such tax returns on his person in order to refer to during the deposition and answer questions pertaining to those income tax returns. Counsel for Plaintiffs and McMenimen shall agree upon a court reporter, and McMenimen shall pay a deposit to that reporter sufficient to cover the attendance fee and anticipated transcript for a 90 minute deposition and pay for Plaintiffs' counsel's time up front for the deposition; OR

C. Stipulate to an Order of this Court ordering McMenimen's accountant to produce copies of income tax returns within ten (10) days herewith including all schedules and W-2s and 1099s filed herewith from 2004 to the present to counsel for the Plaintiffs.

Should McMenimen fail to choose one of these options within 5 days of this Order or fail to cooperate in the option he does choose, Plaintiffs' counsel shall notify the Court and the Court will issue the order referenced in Option C.

As order by:

  
Associate Justice, Superior Court  
Margaret R. Hinkle

*December 11, 2009*